of the Republic of Cuba. The trial court refused to open the default but allowed the filing of defensive pleading. The trial court denied the plea of sovereign immunity and after a trial on the merits rendered judgment distributing the funds to the plaintiffs. Cuba appealed to the Court of Appeals of Georgia. On appeal the U.S. Attorney for the Northern District of Georgia filed in the Clerk's office a suggestion of immunity on behalf of the Secretary of State "that the funds levied on by the process of garnishment were immune from execution". On the right of Cuba itself to raise the plea of sovereign immunity, the Court of Appeals of Georgia said:

> "In the instant case, the defendant specially appeared and by plea raised the defense of sovereign immunity. While it is true that the trial court refused to open the alleged default, the record shows that it nevertheless later permitted the filing of a plea of sovereign immunity and decided the plea on its merits against the defendant. This was proper procedure since the action was commenced as an attachment, and the defendant sought to raise its defense before final judgment had been rendered against it. . . .
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> "It is not material that the actions may have commenced as actions in rem. Republic of Mexico v. Hoffman, 324 U.S. 30, 65 S.Ct. 530, 89 L.Ed. 729. After the filing of the declarations in attachment and appearance by the defendant, the actions became not merely actions against the property attached but also actions against the defendant personally, authorizing general judgments against it. Code § 8-901. Such a judgment cannot be rendered against a sovereign without its consent."

Republic of Cuba v. *Arcade Building of Savannah, Inc.*, 104 Ga. App. 848, 123 S.E. 2d 453, 454-456 (1961).

attachment upheld

In 1956 the Federal Tribunal of Switzerland considered the immunity from execution of a foreign State in connection with an action instituted by a Swiss bank, Julius Bär & Company, to redeem a bond issued by the Greek Government. Julius Bär & Company had secured an order of the court of first instance of Geneva attaching to an amount of 2,500,000 francs, all sums, moneys, debt, etc., standing in the name or in favor of the Greek State in various Geneva banks. The Greek Government contended, *inter alia*, that the immunity from execution of a foreign State should be absolute. The Federal Tribunal in 1956 rejected the contention, stating in part:

> ". . . As soon as one admits that in certain cases a foreign State may be a party before Swiss courts to an action designed to determine its rights and obligations under a legal relationship in which it had become concerned, one must admit also that that foreign State may in Switzerland be subjected to measures intended to ensure the forced execution of a judgment against it. If that were not so, the judgment would lack its most essential

> attribute, namely, that it will be executed even against the will of the party against which it is rendered. It would become a mere legal opinion. Moreover, while its effects would be less directly felt than those of measures of execution, such an opinion would also affect the sovereignty of the foreign State. If, therefore, measures of execution against a foreign State were prohibited in order to safeguard its sovereignty, logically the exercise of jurisdiction would likewise have to be prohibited. This would be contrary to current practice. . . . As far as foreign writers and foreign judicial decisions are concerned, an examination of them does not lead to the conclusion that at the present time opinion is unanimously or predominantly in favour of complete immunity from execution. . . . There is thus no reason to modify the case law of the Federal Tribunal in so far as it treats immunity from jurisdiction and immunity from execution on a similar footing."

The Court declared that "the condition required by earlier decisions, namely, that the act have some connection with Swiss territory, is not satisfied". The Court concluded:

> ". . . It is irrelevant that the reimbursement is at the present time claimed by a creditor domiciled in Switzerland, to whom the bonds have been transferred. That transfer, independent of the intention of the debtor, does not alter the fact that the legal relationship in dispute does not, in view of its substance and the circumstances of its origin, have any connection with Swiss territory. Since that relationship has no connection with Swiss territory, the Kingdom of Greece is entitled to rely on the principle of immunity from jurisdiction of foreign States."

Kingdom of Greece v. *Julius Bär & Co.*, [1956] Int'l L. Rep. 195, 198–201.

In 1960 the Supreme Court of Switzerland held that a lease contract entered into by the Egyptian Minister to Austria for a villa for use for diplomatic purposes and as a residence for the Minister was an act *jure gestionis*, having "a connection with the territory of Switzerland such as is required by the decisions in this Court". After denying a plea of immunity from suit by the United Arab Republic, the Court also denied a plea of immunity from execution and stated in part:

> ". . . Under previous decisions of this Court . . . the power of execution flows from the power of jurisdiction. To be sure, generally speaking, authors and courts hesitate to affirm a state's power of execution against another state to the same degree as they recognize its jurisdiction. Such hesitation, however, is not justified in Switzerland, where the jurisdiction of local courts is recognized within precise limitations, *i.e.*, only with regard to private transactions having a connection with Swiss territory. Furthermore, some authorities are of the opinion that the power of execution is the consequence of the power of jurisdiction. . . ."

United Arab Republic v. *Dame X*, 55 Am. J. Int'l L. (1961) 167, 169; 88 *Journal du Droit International* (1961) 458–465.